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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|-------------------------|---------------------|------------------|
| 10/691,056 | 10/21/2003 | Joseph Anthony Perrotto | CL1453 US CIP | 6093 |

23906 7590 04/26/2005

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| EXAMINER |
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EDWARDS, NEWTON O

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| ART UNIT | PAPER NUMBER |
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1774

DATE MAILED: 04/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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|------------------------------|--------------------------------------|--|--|
| Office Action Summary | Application No. 10/691,056 | Applicant(s) PERROTTO ET AL. | |
| | Examiner N Edwards | Art Unit 1774 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 February 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 and 15-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) 25 is/are allowed.
- 6) ☒ Claim(s) 1-4, 15-17, 22 and 23 is/are rejected.
- 7) ☒ Claim(s) 18-21, 24 and 25 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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Claims 15, 16, 17, 22 and 23 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

New claim 15 "the fiber" is vague and indefinite as to which fiber in claim 1 you are referring to. See claims 16, 17, 22 and 23 for the same problem.

New claim 17, line 2 "comprises a fiber" is vague and indefinite since it is written in aggregation. See MPEP 2173.05 (K). The claim fails to convey how new fiber of claim 17 combines with the filaments of claim 1 to form a consolidated yarn.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 14 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Nelson (U.S. 4,403,470) alone or optionally taken with GB 924,086.

Once again, for the record, a consolidated yarn is a yarn which has been entangled or commingled with two component filament (See Adams U.S. 4,080,778' as authority).

Nelson, a Dupont patent, teaches a composite yarn of staple fiber commingled with continuous filaments yield a consolidated yarn. See abstract and drawing of Nelson. Nelson further teaches any fiber forming synthetic organic polymer or inorganic fiber can be used as the continuous filaments or staple fibers, this encompasses claim 1-4. See column 3, line 52-end.

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In the alternative, GB 924,086 a Dupont patent, is cited to show, for example, fiber forming polymer and inorganic fiber use in composite yarn as taught in Nelson inherently include Nylon, polyester, acrylics, silk, rayon, glass and acetate etc.

Claim 25 (24, 21 20, 19, 18) objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, THIS ACTION IS MADE FINAL. See MPEP § 706.02(I)(3). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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PAAny inquiry concerning this communication should be directed to Primary Examiner Edwards at telephone number 571-272-1521.

A handwritten signature in black ink, appearing to be 'N. Edwards', written in a cursive style.

N. EDWARDS
PRIMARY EXAMINER

Primary Examiner Edwards/af

April 22, 2005